

Reports of Contributions Received by State Candidates And State Ballot Measure Committees

Bill Proposal:

Amend Government Code section 85309 and add section 85309.1 to make the reporting of contributions under section 85309 consistent with other provision in the Political Reform Act (Act), including the late contribution reporting provisions.

Problem:

Section 85309 was added to the Act by the passage of Proposition 34 in 2001. It requires earlier reporting of contributions by candidates for elective state office and committees primarily formed to support state ballot measures, if the candidate or committee is required to file campaign reports electronically under section 84605 of the Act. During an “election cycle” (defined in section 85204 as the period beginning 90 days prior to an election and ending on the date of the election), these candidates and committees must file a report within 24 hours if a contribution of \$1,000 or more is received from a single source. During all periods other than the 90-day election cycle, these committees must file a report within 10 business days if a contribution of \$5,000 or more is received from a single source.

Several issues have been raised since section 85309 was enacted. First, unlike other contribution reporting provisions in the Act (e.g., section 84211(q) and 84203(c)), there is no exception from reporting for contributions that have not been deposited and have been returned to the contributor prior to the deadline for filing the report. Second, sections 85204 and 85309 do not distinguish between an election cycle in which the candidate or ballot measure is being voted on and an election cycle in which the candidate or measure is not on the ballot. Finally, section 84203.3 requires candidates and committees that make “late” nonmonetary contributions¹ to notify the recipient of the value of those services within 24 hours, and gives the recipient an additional 24 hours to report the contribution. No such requirement exists for contributions required to be disclosed within 24 hours during the 90-day election cycle.

Proposed Solution:

These amendments would make reporting under section 85309 consistent with the Act’s other reporting requirements for contributions. Amendments to subdivisions (a) and (b) of section 85309 would codify Commission advice that the reporting is required only during the 90-day election cycle in which the candidate or ballot measure is being voted on—not the 90-day period before every state election.² Subdivision (e) would be added to exempt certain returned contributions from reporting under section 85309, which is consistent with reporting requirements under section 84211(q). Finally, section 85309.1 would be added to require candidates and committees to notify state candidates and ballot measure committees of the value of nonmonetary contributions when making them during the 90-day election cycle. The recipients of the contributions would be given 48 hours (rather than 24 hours) to disclose them.

¹ A “late contribution” is defined in section 82036 as a contribution totaling \$1,000 or more made to a candidate or ballot measure committee during the 16 days prior to the election in which the candidate or measure is being voted on. Late contributions must be disclosed within 24 hours pursuant to section 84203.

² *Fishburn* Advice Letter, No. A-01-283.

Adding section 85309.1 would create the same rule for contributions required to be reported during the 90-day election cycle as for late contributions in section 84203.3.

Bill Language:

§ 85309. Online Disclosure of Contributions.

(a) In addition to any other report required by this title, a candidate for elective state office who is required to file reports pursuant to Section 84605 shall file online or electronically with the Secretary of State a report disclosing receipt of a contribution of one thousand dollars (\$1,000) or more received during ~~an~~ the election cycle in which the candidate is being voted on. Those reports shall disclose the same information required by subdivision (a) of Section 84203 and shall be filed within 24 hours of receipt of the contribution.

(b) In addition to any other report required by this title, any committee primarily formed to support or oppose one or more state ballot measures that is required to file reports pursuant to Section 84605 shall file online or electronically with the Secretary of State a report disclosing receipt of a contribution of one thousand dollars (\$1,000) or more received during ~~an~~ the election cycle in which the ballot measure is being voted on. Those reports shall disclose the same information required by subdivision (a) of Section 84203 and shall be filed within 24 hours of receipt of the contribution.

(c) In addition to any other report required by this title, a candidate for elective state office who is required to file reports pursuant to Section 84605 shall file online or electronically with the Secretary of State a report disclosing receipt of a contribution of five thousand dollars (\$5,000) or more received at any time other than during an election cycle in which the candidate is being voted on. Those reports shall disclose the same information required by subdivision (a) of Section 84203 and shall be filed within 10 business days of receipt of the contribution.

(d) In addition to any other report required by this title, a committee primarily formed to support or oppose a state ballot measure that is required to file reports pursuant to Section 84605 shall file online or electronically with the Secretary of State a report disclosing receipt of a contribution of five thousand dollars (\$5,000) or more received at any time other than during an election cycle in which the ballot measure is being voted on. Those reports shall disclose the same information required by subdivision (a) of Section 84203 and shall be filed within 10 business days of receipt of the contribution.

(e) A contribution need not be reported nor shall it be deemed accepted pursuant to this section if it is not cashed, negotiated or deposited and is returned to the contributor prior to the applicable reporting deadline established in this section.

§ 85309.1. Online Disclosure of In-Kind Contributions.

(a) A candidate or committee that makes an in-kind contribution totaling \$1,000 or more to a candidate for elective state office or a state ballot measure committee during an election cycle in which the candidate or ballot measure is being voted on shall notify the recipient in writing of the value of the in-kind contribution. The notice must be received by the recipient within 24 hours of the time the contribution is made.

(b) A report filed pursuant to subdivision (a) or (b) of Section 85309 by the recipient of an in-kind contribution is deemed timely filed if it is received by the Secretary of State within 48 hours of the time the contribution is received.